

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 3006 of 1995****For Approval and Signature:****HONOURABLE MR.JUSTICE SHARAD D.DAVE**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT RURAL INDUSTRIES MARKETING CORPN LTD (CRIMCO) - Petitioner(s)
Versus
KANTIBHAI POPATLAL PANCHAL - Respondent(s)

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Appearance :

MR MB PARIKH for Petitioner(s) : 1,
MR YV SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE**Date : 21/10/2005****CAV JUDGMENT**

1.By filing this petition, the petitioner has challenged the judgment and award passed by Presiding Officer, Labour Court, Ahmedabad dated 21.04.1994 in

Misc.Application No. 58 of 1994, by which the Labour Court has rejected the said application.

2.It appears from the record that the respondent - workman was appointed by the petitioner as an Assistant for a fixed period of 26 days from 03.09.1985 and was being paid the remuneration of Rs.500/- per month. It also appears from the record that the unit where the respondent was working is closed since 1989 and his services came to be terminated from 17.06.1988. Ultimately, the respondent raised industrial dispute which came to be referred to the Labour Court and numbered as Reference (LCA) No.1871 of 1988. Ultimately, the Labour Court allowed the reference ex-parte and directed the petitioner to reinstate the respondent in service with full back wages. The said judgment and award came to be challenged before this Court by way of Special Civil Application No. 9772 of 1993 which came to be dismissed. Ultimately, the petitioner preferred Misc.Application No. 58 of 1994 before the Labour Court, Ahmedabad which also came to be rejected. Being aggrieved and dissatisfied by the said order dated 21.04.1994, the petitioner has preferred the present petition under Article 227 of the Constitution of India.

3. Heard the learned advocates for the parties and perused the material on record.

4. It can be seen from the record that the services of the respondent came to be terminated as back as on 17.06.1988. Further, this Court has also stayed the impugned judgment and award as regards reinstatement as back as on 11.09.1995. The Labour Court has come to the conclusion that the action of the petitioner in retrenching the respondent - workman is illegal. It is required to be noted that since the respondent - workman was entitled to the protection of Section 25-F of the Act, the said protection could not be denied to him. It is also not the case of the petitioner that while terminating the services of the respondent - workman, the provisions of Section 25-F of the Act have been complied with and in that view of the matter, the termination of services of the respondent - workman cannot be upheld and has to be set aside. Since the services of the respondent - workman have been terminated way back in 1988 and till date 17 years have elapsed, I am not inclined to direct reinstatement of respondent - workman but considering the facts and circumstances of the case, the petitioner is directed to pay the consolidated sum of Rs.30,000/- (Rupees

thirty thousand only) to the respondent in lieu of reinstatement. This Court has also passed the order permitting the respondent to withdraw the amount deposited before this Court by Account Payee Cheque and, therefore, considering the facts and circumstances of the case, no further order is passed granting any back wages in favour of the respondent. It is clarified that this amount is being paid by way of full and final settlement of all the claims of the respondent - workman and the same shall be paid within two months from today.

5. Under the circumstances, the impugned judgment and award dated 21.04.1994 as well as the judgment and award dated 30.03.1993 are modified to the extent indicated hereinabove. The petition is partly allowed. Rule is made absolute to the aforesaid extent.

(SHARAD D DAVE, J)

srilatha